

**MINUTES OF THE COUNCIL OF THE TOWN OF SILVER CITY
REGULAR COUNCIL MEETING**

**Grant County Administration Center, 1400 Hwy 180, Silver City, NM
December 8, 2009 – 7:00 P.M.**

Present: James R. Marshall, Mayor
Cynthia A. Bettison, District 1
Thomas A. Nupp, District 2
Simon Wheaton-Smith, District 3
Steve May, District 4

Also Present: Alex C. Brown, Town Manager-Finance Director
Ann L. Mackie, Town Clerk
Robert L. Scavron, Town Attorney
Rudy Bencomo, Fire Chief
Peter Pena, Public Works Director

1. CALL TO ORDER/PLEDGE OF ALLEGIANCE – Mayor Marshall called the meeting to order at 7:01 p.m.

2. CEREMONIES – None.

3. PROCLAMATIONS – None.

4. PUBLIC INPUT – Ed Conley thanked the Town Council and Town staff for their participation and support of the “Festival of the Soul” event at Penny Park.

5. COUNCIL COMMENTS – The Council commented on the following: recently attended events; congratulations were offered to the Chamber of Commerce’s leadership award winners; the recent rain and snow fall that amounted to .87”; how to protect outdoor pets during cold weather; climate change controversies and concerns and how the Town had made efforts to increase efficiencies and decrease energy consumption; the proposed Land Use Code and opportunities for public input; how noise and speeding tickets were being issued; recognition of Jim and Debbie Nennich for the community dinner they provided to 1200 people; funding and policy issues discussed at the Prospector’s Legislative Forum and thanks were given to Senator Morales, Representative Hamilton and Representative Martinez for their attendance and participation during the discussions at the Forum.

Mayor Marshall, Councilor May, and Councilor Nupp each stated that they would run for another term of office during the March 2, 2010 Regular Municipal Election.

6. CHANGES TO THE AGENDA – None.

7. APPROVAL OF THE MINUTES – Regular Meeting – November 10, 2009: Councilor Bettison made a motion to approve the minutes. Councilor May seconded the motion. All were in favor, motion passed.

8. REPORTS – A. Report from the Town’s Parks and Recreation Board. Cindy Neely, Chair of the Parks and Recreation Board, gave a report on the mission, activities, and goals of the Board. She also stated that the Board was still in favor of the Town hiring a Parks and Recreation Coordinator.

Manager Brown reported that the CDBG close-out hearing was held that day and the Town passed with no findings. He stated he was working hard to get all of the information required by the State to justify the Town’s funding requests and commended the staff because the majority of the funds had been committed. He reported that 2 vehicles were stolen from the Parks and Maintenance yard behind the Recreation Center and that the Public Works office was also broken into. He said no arrests had been made. He commented on how the Town would lose \$1.1 million per year in gross receipts tax if the State removed the hold harmless clause for gross receipts tax for food. He said the Town received \$8.4 million in revenue in 2009 and a loss of \$1.1 million per year would devastate the community and how services would be lost from the Recreation Center, Streets Department, Parks Department, Library, Museum, and Municipal Court.

Town Clerk Mackie provided information on the upcoming Regular Municipal Election to be held on March 2, 2010 for elective offices for the Mayor, Councilors for District 2 and 4, and Municipal Judge. Fire Chief Bencomo
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reported that the Fire Department had submitted the SAFER (Staffing for Adequate Fire and Emergency Response) grant in order to request 3 new firefighter positions. He also reported that Milo Lambert, Fire Marshal, was attending the National Fire Academy for 2 weeks.

9. PUBLIC HEARINGS – A. Approval / Disapproval of Ordinance No. 1160: Request for a Map Amendment / Zone change, #ZC09-2, from Commercial to Residential B for a tract of land approximately .17 acres in size, and located on a tract of land addressed as 1208 Corbin St., on Lot 8, Block 243, Section 3 of the Fraser Survey. The applicant was Lillian J. Marquez. Mayor Marshall stated that the Town Council would serve as the hearing board and he would serve as the presiding officer. He asked the hearing board if they had any ex parte discussion concerning the case, and none had. The Town Clerk swore in two witnesses for the hearing. Alexandra Perrault, Town Planner, presented the case and said the Planning and Zoning Commission and the Community Development Department's staff recommended the approval of the request from Commercial to Residential B, addressed as 1208 Corbin Street. Ms. Perrault answered questions from the hearing board. Ms. Marquez asked for the issues on her property to be resolved. There was no opposition to the case. Mayor Marshall asked the hearing board if they were prepared to render a decision. Councilor May made a motion to adopt Ordinance No. 1160 and he cited Finding #1 that the proposed amendment was in substantial compliance with the Town's Comprehensive Plan. Councilor Bettison seconded the motion. There was no further discussion. A roll call vote was taken with the following results: Councilor May – aye; Councilor Wheaton-Smith – aye; Councilor Nupp – aye; and Councilor Bettison – aye. Motion passed.

Councilor May made a motion to take a break at 8:03 p.m. Councilor Bettison seconded the motion. All were in favor, motion passed. Mayor Marshall called the meeting back to order at 8:13 p.m.

10. UNFINISHED BUSINESS – None.

11. NEW BUSINESS –

A. Approval / Disapproval of Resolution No. 2009-28: Authorizing the Town to submit a Community Development Block Grant Program application to the Dept. of Finance and Administration/Local Government Division; and authorizing the Mayor to act as the Town's Chief Executive Officer and authorized representative in all matters pertaining to the Town's participation in the CDBG Program. Peter Pena, Public Works Director, presented the details of Resolution No. 2009-28 and stated it would permit him to submit a grant for the 2010 application process for the CDBG program. He said they would apply for a street and drainage improvement project in the Chihuahua Hill neighborhood. He commented that in 2009 water and sewer improvements were completed in that neighborhood and they wanted to follow-up with the following street improvements: re-paving, restoration of some curbs and gutters, ADA ramps at all intersections, ADA drive pads, and depending on funding, some sidewalk work. He stated that they were going to ask for \$500,000 for the project. He answered questions from the Council. Councilor Wheaton-Smith made a motion to adopt Resolution No. 2009-28. Councilor May seconded the motion. There was further discussion. A roll call vote was taken with the following results: Councilor May – aye; Councilor Wheaton-Smith – aye; Councilor Nupp – aye; and Councilor Bettison – aye. Motion passed.

B. Approval / Disapproval of Notice of Intent Ordinance No. 1161: An Ordinance to adopt a Gas Franchise Agreement between the Town of Silver City and New Mexico Gas Company, Inc. Manager Brown presented Notice of Intent Ordinance No. 1161 and the described the previous gas franchise agreement that had expired 4 years previously. He said their main concern was that the restoration of the streets be within Town standards that were in place at the time the work was done. Attorney Scavron recommended a change to the document on page 2, Section II, in the first paragraph as follows: the last sentence of the first paragraph in Section II was deleted and replaced with "All excavations shall be completed within fifteen (15) days and restored in accordance with Town design and construction standards." Councilor May made a motion to adopt Notice of Intent Ordinance No. 1161 with the recommended amendment. Councilor Wheaton-Smith seconded the motion as stated. All were in favor, motion passed.

C. Approval / Disapproval of cancellation of December 22, 2009 Regular Council Meeting. Councilor Wheaton-Smith made a motion to cancel the December 22, 2009 Regular Council Meeting. Councilor Bettison seconded the motion. Mayor Marshall asked Councilor Wheaton-Smith if he wanted to include in his motion a motion to have a Special Council Meeting. Councilor Wheaton-Smith said he would like to re-phrase his motion so Councilor Bettison withdrew her second. Councilor Wheaton-Smith corrected his motion and moved to cancel the December 22, 2009 Regular Council Meeting, however, to also schedule a Special Meeting at a time and date to be published to discuss the bid award for the Silver Street project at a time and place to be specified. Councilor Bettison seconded the motion as stated. There was further discussion about a tentative date for the Special Meeting. Attorney Scavron suggested that the motions should be stated separately because motions deal with one issue at a time. Councilor Wheaton-Smith withdrew his motion and Councilor Bettison withdrew her second. Councilor Bettison made a motion to approve the cancellation of the December 22, 2009 Regular Council Meeting. Councilor Wheaton-Smith seconded the motion. All were in favor, motion passed.

Councilor Bettison made a motion to set a Special Meeting at a time and place to be determined for consideration of the bid award for the Silver Street mill and overlay project. Councilor Wheaton-Smith seconded the motion as stated. There was further discussion to tentatively set the Special Meeting for December 17, 2009 at 6:00 p.m. All were in favor, motion passed.

Councilor Bettison made a motion to go into Executive Session pursuant to NMSA 1978 Section 12-6-5 of the Audit Act. Councilor Wheaton-Smith seconded the motion. A roll call vote was taken with the following results: Councilor Bettison – aye, Councilor Nupp – aye, Councilor Wheaton-Smith – aye, and Councilor May – aye. The motion carried and the Council went into Executive Session at 8:35 p.m. The matters discussed in the closed meeting were limited only to those specified in the motion for closure.

12. ADJOURNMENT – Councilor Bettison made a motion to adjourn at 8:48 p.m. Councilor May seconded the motion. All were in favor, motion passed.

/s/

James R. Marshall, Mayor

Attest:

/s/

Ann L. Mackie, Town Clerk